Supreme Court, U.S.
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No. 80-640

IN THE

Supreme Court of the United States

OCTOBER TERM, 1980

JODY JAMES and BARBARA JAMES,

Petitioners,

VS.

FORD MOTOR CREDIT COMPANY and DEL NORTE MOTOR COMPANY,

Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

BRIEF OF GENERAL MOTORS ACCEPTANCE CORPORATION and O'NEAL MOTORS, INC. IN OPPOSITION

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January 8, 1981

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Respondents, General Motors Acceptance Corporation and O'Neal Motors, Inc., through their counsel, respectfully request the Court to deny the Petition for a Writ of Certiorari filed in this cause.[1]

[1] This Brief addresses only the first question presented, since the second question does not apply to these Respondents. Plaintiff, Lisa Hernandez, dismissed her additional allegations of alleged violations of the Truth-in-Lending Act and Regulation Z as part of a Stipulation of Facts in lieu of trial.

ARGUMENT

I. The Issue Raised by the First Question Presented Does Not Merit Review in this Court.

There are no "special and important reasons"[2] for granting Certiorari raised by the first question presented in the instant Petition. The question whether an assignment of returned or unearned premiums of physical damage insurance must be disclosed as a security interest under the Truth-in-Lending Act and Regulation Z has been answered by the Congress. As the Court below has pointed out, the Truth-in-Lending Simplification and Reform Act[3] reflects an interpretation by Congress of the earlier act and a legislative determination that incidental interests, such as those at issue here, need not be disclosed as security interests.[4] This is in accord with *Ford Motor Credit Co.* v. *Milhollin,* ..... U.S. ....., 48 L.W. 4145, decided February 20, 1980, which held that, "*Meaningful* disclosure does not mean *more* disclosure." 48 L.W. 4149. The statutory provision in issue as amended, effective April 1, 1982, vitiates any need for guidance by this Court as to creditors' proper future course of action. Thus, the Court and Congress have removed any reasons that might otherwise have been deemed appropriate for granting the Petition.

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[2] Rule 17.1 of the Rules of the Supreme Court of the United States.

[3] Title VI of the "Monetary Control Act of 1980." P.L. 96-221, 94 Stat. 132.

[4] Opinion Below in the Court of Appeals, at Appendix A-4-A-6 to Petition and Order of the Court of Appeals Denying Petition for Rehearing, at Appendix A-14 to Petition.

II. The First Question Presented is Identical to a Question Already Before the Court.

In the alternative, these Respondents request that the Court deny Certiorari herein as the issue raised by the first question presented is also precisely raised in *Anderson Bros. Ford and Ford Motor Credit Company* v. *Olga Valencia and Miguel Gonzalez*, No. 80-84 *Cert. granted* November 10, 1980.

CONCLUSION

For the foregoing reasons, these Respondents respectfully request the Court to deny the Petition.

Respectfully submitted,

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